

## **BILL ANALYSIS**

C.S.H.B. 3257

By: Delisi

State Health Care Expenditures, Select  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

During the 77th Legislative session (2001) House Bill 3343 established a uniform group coverage program for school district employees with funds from state, district, and employee contributions and created a \$1,000 “pass through” of state funds to assist these employees with their health care needs.

In June of 2002, the Internal Revenue Service (IRS) issued a ruling that facilitated an innovative new method for use by employers to assist their employees in paying for health care. Referred to as a health reimbursement arrangement (HRA), this new model of health care financing enabled an employer to make a tax-free contribution into an account held on behalf of an employee. The employee was then free to spend these pre-tax dollars on their qualified health care expenditures. Unexpended funds would “roll over” into the next year, which provides an opportunity for employees to build up a reserve for unplanned expenditures.

In many ways, the new program functions like a medical savings account, except that it is funded only with employer money.

Current statutes do not allow school district employees to take advantage of this new tax-free approach to assisting with their health care. The result is that employees face having to use after-tax dollars to pay for medical expenses that would be eligible for HRA reimbursement. This legislation establishes an HRA system for school employees and has the impact, via the clear tax advantages, of actually increasing a school employee’s total pay and benefits package.

### **RULEMAKING AUTHORITY**

It is the committee’s opinion that rulemaking authority is expressly granted to the Teacher Retirement System of Texas in SECTIONS 1.06. (Article 3.50-8, Insurance Code) and SECTION 1.07 (Section 4, Article 3.50-8, Insurance Code) of this bill.

### **ANALYSIS**

C.S.H.B. 3257 creates a system of HRAs for active school employees and directs that the money that is appropriated by the State of Texas that is sent to school districts for use by active school employees is to be deposited into an HRA to pay for qualified medical expenses.

C.S.H.B. 3257 establishes that deposits made into an HRA may be used by an employee for qualified health care expenditures (as defined by the Internal Revenue Service) that benefit the employee or their qualified dependents. Unexpended funds in an employee’s HRA account at the end of a plan year will rollover into the following year. The funds deposited in an HRA will remain available for use by an employee and their dependents for qualified health care expenditures after the employee leaves their current employer, such as through retirement.

The Teacher Retirement System (TRS) is to act as the trustee for the accounts and is authorized to pay the minimal administrative expenses needed to maintain the HRA accounts out of the contribution amount. The contributions made to the employee’s HRA will occur in equal monthly installments.

Employees that have funds available in a Sec. 125 cafeteria plan will be required to expend these funds prior to using funds in the HRA in acknowledgment of the fact that cafeteria plan does not contain a rollover provision.

The state is defined as one of the entities meeting the definition of an “employer” in this legislation for the limited purpose of satisfying federal requirements concerning which entities may contribute to an HRA. This article does not make a school district employee an employee of the state for any other purposes.

### **EFFECTIVE DATE**

This act takes effect September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute differs from the original by conforming to Texas Legislative Council style and format. The substitute makes statutory references changes from adding Chapter 1579 to the Insurance Code to amending Article 3.50-8 of the Insurance code. The substitute differs in that it changes the original bill from establishing a defined contribution health care benefits program for active school employees, to directing the pass through money of state dollars to active school employees which will go directly into an HRA account for active school employees to use towards qualified medical expenses.

The substitute changes the bill caption to conform with the bill. The substitute adds in the general definitions administering firm, approved health benefit plan provider, health reimbursement arrangement, definition of employer. The substitute changes the definition name of health benefit plan issuer to health benefit plan provider. The substitute makes conforming changes to the definition of employee, program, and qualified health care expense. The substitute removes the definition of account administrator, charter school, and district from the original bill.

The substitute reduces the state contribution from \$3000 annually or an amount specified in the General Appropriations Act to \$1000 annually or an amount specified in the General Appropriations Act by the state to be deposited into an HRA account for use by the employee.

C.S.H.B. 3257 removes the necessary provisions from the original bill in order to achieve the desired affect of the substitute and to conform with the proposed amended statutes in the substitute. The substitute changes the bidding requirements by establishing entities that qualify and may have contracts awarded through a competitive bidding process.

The substitute differs in that it changes the title from “Confidentiality of Records” in the original bill to “Confidentiality of Participant Records” in the substitute. Additionally, the substitute makes conforming changes to comply with article 3.50-8 of the Insurance Code. The substitute specifies to whom the trustee may release records. The substitute changes the title “Annual Accounting” to “Issuer Records” and allows the trustee to request reports in order to accomplish the purposes of the article. The substitute also allows the trustee and a representative of the state auditor to examine records of the health benefit plan issuer in order to accomplish the purposes of the article. The substitute removes language that prevents the health benefit plan provider from charging the trustee for reports that the trustee may request. The substitute further removes the reference to “plan year.”

The substitute differs in that it expands who the trustee may contract with to implement and administer the program to include an independent and experienced group insurance consultant or actuary for advice and counsel including the Employees Retirement System of Texas. The substitute adds language to prohibit the trustee from directly administering, establishing, approving, or limiting premium rates for any health benefit plan coverages under the program.

The substitute makes conforming language changes to continue to allow the participant to carry over money allocated by the employer through out the period the employee is eligible to participate in the

program.

The substitute changes the repealed sections to conform with the substitute. The substitute amends section 822.201(c) of the Government Code by adding “contributions to a health reimbursement arrangement account” that are received by an employee under Article 3.50-8, Insurance Code.

The substitute changes the title “Transition ; Effective Date” to “Implementation Effective Date.” The substitute makes conforming changes to allow the TRS and the comptroller to implement the provisions of this bill.